

Dear Friend:

The United States Constitution grants every person accused of a crime fundamental rights, including the right to a speedy trial, the right to counsel, the right to confront witnesses, and due process under the law. Our Constitution, however, guarantees no rights to crime victims.

This failure has caused many victims and their families to suffer twice – once at the hands of the criminal and a second time at the hands of our justice system. Victims and their families are often treated as inconveniences, ignored throughout trial proceedings, and sometimes even forced to stay out of the courtroom during trial proceedings.

FACT: More than 6 million people become victims of crime every year in the United States.

FACT: The U.S. Constitution guarantees more than a dozen rights to those accused of committing crimes.

FACT: Not one word is written in the U.S. Constitution on behalf of crime victims.

To balance the scales of justice, I have sponsored a constitutional amendment with Senator Jon Kyl of Arizona. The Crime Victims' Rights Amendment would provide fundamental protections for victims of violent crime.

Protecting the rights of crime victims will not weaken the rights of the accused; it will simply restore some measure of fairness to a system slanted decidedly against those who have nowhere else to turn for justice.

Sincerely,

A handwritten signature in blue ink that reads "Dianne Feinstein". The signature is fluid and cursive, with the first name "Dianne" and last name "Feinstein" clearly legible.

Dianne Feinstein

The Crime Victims' Rights Amendment

Preamble:

The preamble establishes that the rights of victims of violent crime can be protected without denying defendants' rights, and provides that victims' rights can only be restricted as provided by the amendment.

Rights:

The amendment creates seven procedural rights for victims of violent crime including:

1. The right to reasonable and timely notice of any public proceeding involving the crime;
2. The right to reasonable and timely notice of any release or escape of the accused;
3. The right not to be excluded from any public proceeding involving the crime;
4. The right to reasonably be heard at public release, plea, sentencing, pardon, and reprieve proceedings;
5. The right to adjudicative decisions that duly consider the victim's safety;
6. The right to adjudicative decisions that duly consider the victim's interest in avoiding unreasonable delay; and
7. The right to adjudicative decisions that duly consider the victim's just and timely claims to restitution from the offender.

Limitations:

Furthermore, the amendment contains the following limitations:

- Allows victims' rights to be restricted when and to the degree dictated by a substantial interest in public safety or the administration of criminal justice, or by compelling necessity.
- Permits only the victim or his lawful representative to assert the rights established by the amendment;
- Bars money damages for violations of the amendment;
- Prohibits retrials of defendants for violations of the amendment; and
- Bars defendants from obtaining relief under the amendment.

Enforcement:

The amendment authorizes Congress to enforce the amendment by legislation but does not affect the President's authority to grant pardons and reprieves.

For nearly 7 years, Senators Feinstein and Kyl have worked on an amendment to the Constitution that would create a balance between the rights of the accused and rights of victims. In the summer of 2000, the amendment was debated on the floor of the Senate.

*The Crime
Victims' Rights
Amendment was
"written with care
and strikes the
right balance."
President George
W. Bush, April
15, 2002*

In response to concerns raised by some senators, Feinstein and Kyl withdrew the amendment from consideration. Over the past year, they have worked with constitutional lawyers to improve the amendment and address the concerns raised. The amendment was introduced again in January 2003.

The new version of the amendment was endorsed by President George W. Bush and Attorney General John Ashcroft. In announcing his support for the amendment, President Bush said that it was "written with care and strikes the right balance."

Over the next year, Feinstein and Kyl will work to build support for the amendment among their colleagues and with the general public.

Why a Constitutional Amendment

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress;

The Bill of Rights affords the highest constitutional protection to fundamental civil rights. The rights spelled out in the Constitution cannot, and should not, be abridged for any reason other than the most compelling state, national or public safety interest.

Because victims of crime have no rights, they are often overlooked in the judicial process or deliberately denied participation in deference to the rights of the accused. For instance, many family members of crime victims are denied the right to be present in the courtroom because the defendant's attorneys claim they may be called as material witnesses during the trial. All too often, though, they are never called to testify, but are merely kept out of the courtroom to keep them out of the sight of the jury.

The Victims' Rights Amendment is the culmination of thousands of hours of effort, including meetings with and input from the Department of Justice, prosecutors, the White House, numerous victims' rights groups, other senators and representatives, and distinguished legal scholars, including Professor Larry Tribe of Harvard University Law School.

The Process

In our nation's history, only 27 amendments have been added to the U.S. Constitution, including the first ten, known as the Bill of Rights. Amending the United States Constitution involves two separate processes:

1. Congress or the States Propose an Amendment

Amendments may be proposed by Congress, which must be passed by two-thirds of the Members in both the House and the Senate. The Constitution may also be amended at a "Constitutional Convention," which requires the support of two-thirds of the states to be formed. So far, there has never been a convention called under this authority.

2. Ratification by the States

Upon passage of the amendment by either Congress or the Constitutional Convention, three-fourths of all state legislatures must vote in favor of the amendment for it to be added to the U.S. Constitution.

The Need for a Victims' Rights Amendment

The need for a Constitutional Amendment for crime victims was first recognized in 1982 by President Reagan's Task Force on Victims of Crime, which stated that the present system "has deprived the innocent, the honest, and the helpless of protection." The same year, California became the first state in the nation to pass a victims' rights amendment.

Twenty years and millions of crime victims later, the Constitution still does not provide basic rights which can help balance the scales of justice between those accused of crimes and the victims of those crimes. Victims and their families are frequently treated as inconveniences, ignored throughout trial proceedings, even forced to stay out of the courtroom.



A Failed System

When including the rights of the accused in the Constitution, our founding fathers did not think to include the rights of crime victims. Then again, in 1789, there weren't 6 million victims of violent crime every year and victims back then most likely weren't treated with as much disrespect as they are now. In fact, victims of violent crime each year in this country now outnumber the nation's entire population when the Constitution was written.

Today, victims and their family members are all too often excluded from courtrooms, prohibited from testifying, forced to wait through years of trial appeals, not notified of parole hearings, not notified when their assailant has escaped or has been released, intimidated by freed assailants, and denied full restitution.

Below are just a few examples of the injustices faced by too many innocent victims.

Case: **Frank Carlson: Murdered.**

Annette Carlson: Raped, beaten, left for dead.

Annette Carlson, 24, was forced to watch as an assailant beat her husband, Frank, to death. He then repeatedly raped and beat her, breaking her arms, fingers, shoulder and jaw. He then set the couple's bodies on fire. Annette survived and lived to testify against her attacker.

Status: **She has never been notified of her attacker's ten separate parole hearings, and has changed her name in fear of the day he is released from jail.**

Case: **Patricia Pollard: Raped, beaten, left for dead.**

The assailant who raped and beat Patricia Pollard was paroled 10 years short of serving his minimum sentence - without any notice to Patricia. Within a year he was put back in jail for serious narcotics violations and was to be released to "home arrest" three years later.

Status: Patricia's assailant was to be released once again, but due to a state victims' rights amendment passed during that time, Patricia was allowed to appeal his parole, and won the right for a new hearing and to testify. Following her testimony against his release, the Board of Pardons reversed its prior decision and denied parole.

Case: **Scott Campbell: Strangled, then thrown from airplane.**
It took eleven months before Gary and Collene Campbell learned what had happened to their only son who was missing. The long wait was just a precursor of things to come. Seven years and nine months later, the initial trial phase of Scott's two assailants was completed.

Status: Today, fourteen years after Scott was murdered, the Campbells continue to sit outside of courtrooms they have been prohibited from entering as their son's killers continue appealing their convictions.

Case: **Catina Rose Salarno: Murdered.**
The brutal shooting death of college freshman Catina Salarno in 1979 and the treatment of her family in the aftermath was a catalyst for the first victims' rights movement in California.

Status: Her family was not allowed in the courtroom and had to receive news of the trial proceedings by waiting in hallways outside the courtroom.

Case: **Jay Prescott: Killed by Drunk Driver.**
After Katherine Prescott's 16-year-old son was struck by a drunk driver, she wanted to become involved in the prosecution of the defendant. The prosecutor's office, however, refused to give her pertinent information on the case, did not allow her to testify and even threatened to evict her from the courtroom if she showed any emotions during the trial.

Status: Katherine was forced to hire a private attorney and pay him to find out information on the case.
She has since founded Mothers Against Drunk Driving (MADD), the largest crime victims' assistance organization in the world.

Text of the Amendment

Joint Resolution

Proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States.

Article

SECTION 1. The rights of victims of violent crime, being capable of protection without denying the constitutional rights of those accused of victimizing them, are hereby established and shall not be denied by any State or the United States and may be restricted only as provided in this article.

SECTION 2. A victim of violent crime shall have the right to reasonable and timely notice of any public proceeding involving the crime and of any release or escape of the accused; the rights not to be excluded from such public proceeding and reasonably to be heard at public release, plea, sentencing, reprieve, and pardon proceedings; and the right to adjudicative decisions that duly consider the victim's safety, interest in avoiding unreasonable delay, and just and timely claims to restitution from the offender. These rights shall not be restricted except when and to the degree dictated by a substantial interest in public safety or the administration of criminal justice, or by compelling necessity.

SECTION 3. Nothing in this article shall be construed to provide grounds for a new trial or to authorize any claim for damages. Only the victim or the victim's lawful representative may assert the rights established by this article, and no person accused of the crime may obtain any form of relief hereunder.

SECTION 4. Congress shall have power to enforce by appropriate legislation the provisions of this article. Nothing in this article shall affect the President's authority to grant reprieves or pardons.

SECTION 5. This article shall be inoperative unless it has been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within 7 years from the date of its submission to the States by the Congress. The article shall take effect on the 108th day after the date of this ratification.

Support for the Amendment

Today, 33 states have victims' rights amendments in their state constitutions or are in the process of ratifying a victims' rights amendment.

It is also supported by numerous parental and crime victims organizations including:

Parents of Murdered Children
National Organization for Victim Assistance
National Victims' Constitutional Amendment Project
Mothers Against Drunk Driving
National Association of Crime Victim Compensation Boards
Victims' Assistance Legal Organization
International Association of Chiefs of Police
National Association of Police Organizations
International Union of Police Associations/AFL-CIO
Federal Law Enforcement Officers' Association
National Troopers' Coalition
American Probation and Parole Association
American Correctional Association
National Center for Missing and Exploited Children
Concerns of Police Survivors
California District Attorneys Association
California Correctional Peace Officers Association
Los Angeles County Police Chiefs' Association
Crime Victims United of California
Klass Kids Foundation/
Beyond Missing, Inc.
Los Angeles Coalition of Crime Victim Advocates
Doris Tate Crime Victims Bureau

Stephanie Roper Foundation
Memory of Victims Everywhere
Survivors of Murder Victims
Victims & Friends United
Vocal Foundation
(Justice for Murder Victims)
Arizona Voice for Crime Victims
Vermont Victim/Survivor of Crime Council
Citizens for Law and Order
Drive By Agony
Justice Against Crime
Justice for Homicide Victims
C.C.F.S.H., Inc.
Justice for Murdered Children
Speak Out for Stephanie
Rape Response & Crime Victim Center
Association of Traumatic Stress Specialists
Mothers Against Violence in America
National Restaurant Association
Jewish Women International
National Association of Negro Business & Professional Women's Clubs
National Self-Help Clearinghouse
American Horticultural Therapy Association
Neighbors Who Care
Security on Campus, Inc.
International Association for Continuing Education and Training
Women in Packaging, Inc.
American Machine Tool Distributors' Association

How You Can Help

- ◆ Call your Representative in Congress and your U.S. Senator at (202)224-3121

- ◆ Send letters of support to your Member of Congress:

(Name of Member of Congress)
House of Representatives
Washington, D.C. 20515

(Name of Senator)
U.S. Senate
Washington, DC 20510

- ◆ Write letters to the editor of your local newspaper to make others aware of the need for a Crime Victims' Rights Amendment.
- ◆ Ask your local district attorney, police chief, sheriff and state attorney general for their formal endorsement.